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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

Internally displaced persons

Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission on Human Rights resolution 1996/52

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Introduction

1. Since the appointment of the Representative of the Secretary-General on internally displaced persons in 1992, his role has evolved into one of a catalyst, involving raising awareness and acting as an advocate for the internally displaced with a view to stimulating action on their behalf. The activities of the Representative have crystallized into three main areas of work. The first is the development of an appropriate normative framework for addressing the needs of the internally displaced. The second area is the promotion of effective institutional arrangements for meeting the challenges of protecting and assisting the internally displaced. The third aspect of the mandate involves undertaking visits to countries with serious problems of internal displacement in order to promote dialogue with Governments and other actors relevant to addressing the needs of the internally displaced, towards the aim of improving conditions on the ground. The present report provides an update of the Representative's activities in these three areas of work.

I. THE NORMATIVE FRAMEWORK

2. The extent to which existing legal norms address the needs of internally displaced persons has been a subject of study by the mandate since its inception. After several years of intensive work in collaboration with academic institutions and experts, the Representative submitted a compilation and analysis of legal norms to the Commission at its fifty-second session (E/CN.4/1996/52/Add.2). The study examined the relevant provisions of international human rights law, humanitarian law and, by analogy, refugee law, to determine whether they adequately covered the protection and assistance needs of the internally displaced or whether the development of additional standards was necessary. The compilation and analysis concluded that while existing law covers many aspects of particular relevance to internally displaced persons, there are several significant areas in which the law fails to provide sufficient protection. These areas of inadequate coverage may be divided into two main categories according to whether they arise from clear gaps or grey areas in existing law.

3. Clear gaps in international protection arise in certain areas where no explicit norms exist to address identifiable needs of the internally displaced, such as those relating to personal documentation or to restitution of or compensation for property lost during displacement. A norm may exist in human rights law but be lacking in humanitarian law, or vice versa. In such cases, it is possible to articulate rights only by analogy with existing provisions of law that are limited in their application to specific situations, such as armed conflict, or to distinct categories of persons, such as children, refugees, or minorities.

4. The second category of insufficient coverage results where a general norm exists but a corollary, more specific right has not been articulated that would ensure implementation of the general norm in areas of particular need to internally displaced persons. For example, there may be a general norm on freedom of movement, but there is no explicit right to find refuge in a safe part of the country nor a guarantee against the forcible return of internally displaced persons to places of danger. Grey areas in the law also arise with regard to protection against gender-specific violence and the forcible

recruitment of children. While it may be possible to infer specific legal rights from general norms, the protection of the internally displaced would be strengthened by spelling out the particular corollary of the norm relevant to their needs.

5. There are also inherent shortcomings in the law. For example, in some situations of tensions and disturbances short of armed conflict, humanitarian law is not applicable and human rights law may be restricted or derogated from, thereby suspending protections that are critical for the well-being or survival of the internally displaced. Human rights law, moreover, with few exceptions binds only States, not non-State actors, such as insurgent groups under whose authority internally displaced persons may reside. Furthermore, some States have not ratified key human rights treaties or the Geneva Conventions and their Additional Protocols, and are therefore not formally bound by their provisions unless they are reflective of customary law.

6. On the basis of the conclusions of the compilation which recognized that there are significant areas in which international law fails to provide adequate protection for the internally displaced, the Representative recommended a restatement of existing law and clarification of its provisions in a single document. Doing so would serve several useful purposes. It would consolidate in one place the relevant existing norms that are at present too dispersed and diffuse to be effective. It would call attention to the need for the better implementation of existing norms. The document also would serve the educational purpose of increasing international awareness of the plight of internally displaced persons and of the need for further measures to effectively address it. Moreover, it should prove valuable to the work of Governments, international organizations and non-governmental organizations (NGOs) in promoting and protecting the rights of internally displaced persons.

7. The Commission on Human Rights, at its fifty-second session, called for the wide dissemination of the compilation and analysis of existing norms. The High Commissioner for Human Rights has endorsed the publication of the compilation, and it is the hope of the Representative that the study will be published and distributed as soon as possible. The wide dissemination of the compilation among Governments, international organizations and NGOs would serve to increase their awareness of the protection needs of the internally displaced and of the international legal standards relevant to addressing them. In the case of Governments, it could assist them with the drafting of laws relevant to internal displacement. The experience of the Office of the United Nations High Commissioner for Refugees (UNHCR) attests to the utility of the compilation to international organizations working in the field. On the basis of the study, UNHCR has developed a reference manual for its field staff on the international legal standards applicable to the protection of internally displaced persons. 1/ It is the hope of the Representative that other agencies as well as NGOs will follow the example set by UNHCR and use the compilation to enhance understanding among their staff of the standards of human rights and humanitarian law applicable to the protection of the internally displaced.

8. For his own part and in accordance with the request of the Commission, the Representative is continuing to develop, on the basis of the compilation, an appropriate framework for the protection of internally displaced persons.

He has been studying the specific form that such a framework might take, and currently is in the process of formulating a body of guiding principles. A meeting of legal experts was convened in Geneva in June 1996 to begin drafting the guiding principles. These were then discussed at a second meeting, held in October 1996, in which representatives of United Nations agencies and NGOs also participated. A second legal round-table discussion will be held in April 1997. A meeting of legal experts from the various geographic regions as well as representatives of United Nations agencies, regional organizations and NGOs will be hosted by the Government of Austria in Vienna in 1997 to review and refine the guiding principles.

9. It should be noted that the normative framework to be developed will be comprehensive in scope, addressing all phases of displacement, including its prevention. The legal compilation and analysis prepared by the Representative examined the legal standards applicable to persons once displaced. A separate study currently is being undertaken on the content and limitations of a right not to be displaced. Together, these studies will provide the basis for the development of guiding principles applicable before displacement occurs, those that apply in actual situations of internal displacement, and those that apply to the post-displacement phase. While the development of minimum humanitarian standards covering all situations, such as by the Turku-Abo Declaration currently under consideration by the Commission (E/CN.4/1995/116), would serve to fill some of the gaps in legal protection for internally displaced persons, there remains a need for guiding principles focusing specifically on their particular needs.

II. THE INSTITUTIONAL FRAMEWORK

10. The analysis and evaluation of existing institutional arrangements relevant to the internally displaced also reveal serious gaps. At present, there is no institution with exclusive responsibility for the internally displaced. Nor in the view of many should there be one institution mandated to assume this responsibility. The problem of internal displacement exceeds the capacities of any single organization. Internally displaced persons have humanitarian assistance needs, protection needs, and reintegration and development needs. An effective framework for dealing with internal displacement requires bringing together the humanitarian, human rights and development regimes into a comprehensive approach. Existing capacities need to be strengthened and collaboration enhanced among the wide variety of bodies and organizations whose mandates and activities are relevant to addressing the problem of internal displacement. Considering the intensity and scope of the crisis of internal displacement, improvements are needed to provide a more predictable and coherent response. The current system of ad hoc collaborative relationships is too often constrained by problems of coordination, neglect of protection and human rights, and insufficient support for the processes of reintegration and development.

11. One promising step towards strengthening the collaborative approach is the conclusion among international agencies of agreements that have the effect of dividing responsibility for different tasks in emergency situations according to institutional expertise. A memorandum of understanding, for example, was signed between UNHCR and the United Nations Children's Fund (UNICEF) in 1996 which provided for UNICEF to assume responsibility for

protecting, assisting and tracing unaccompanied children in their countries of origin. This should help enhance protection for internally displaced children. Additional agreements are needed to help achieve a more predictable division of labour among agencies with regard to protection, assistance and development for the internally displaced. The memorandum of understanding signed between the World Food Programme (WFP) and UNHCR on the delivery and distribution of food to refugees might be instructive for the development of a similar agreement with regard to the internally displaced. Country-level memoranda of understanding and letters of agreement guiding specific operational activities also have proven to be an effective mechanism for enhancing collaboration. The establishment of joint working groups and task forces among operational partners has further contributed to reducing gaps and overlaps in resource mobilization and programme activities. In Somalia, for example, an inter-agency task force was formed that specifically focused on the needs of internally displaced persons. The Representative welcomes the development and strengthening of such cooperative arrangements and the inclusion within them of provisions focusing on the specific needs of internally displaced persons.

12. For his own part, the Representative has exchanged a letter of understanding with the Under-Secretary-General for Humanitarian Affairs defining a framework for cooperation between them with respect to the problem of internal displacement. The agreement contains a commitment for the development of an information-sharing system on internally displaced persons, to be managed and maintained by the Department of Humanitarian Affairs (DHA). It also provides for the formulation of joint strategies to ensure that both the protection concerns as well as the humanitarian relief requirements of internally displaced persons are addressed. To this end, DHA may request the Representative to visit particular countries to engage in dialogue with the Governments concerned and to raise the visibility of any problems demanding attention. The Representative and the Under-Secretary-General for Humanitarian Affairs agree to jointly sponsor briefings to apprise delegates to the United Nations of important issues relating to internal displacement. Furthermore, the agreement provides that the Representative will support DHA's overall coordinating role, in particular as it applies to activities and studies relating to the internally displaced, while DHA will organize meetings with Governments to discuss the issue of internal displacement and to mobilize support for the Representative's efforts to discharge his mandate.

13. Enhancing the collaborative approach requires not only greater coordination among the agencies involved but also a more comprehensive response to the protection needs of the internally displaced. Insufficient attention to protection needs constitutes the greatest gap in existing institutional arrangements. While institutional mechanisms for the provision of assistance to the internally displaced are reasonably well developed, there remains a need to address the element of protection more effectively. Forging a comprehensive approach has proven difficult because only UNHCR and the International Committee of the Red Cross (ICRC) have extensive experience in providing both protection and assistance to the internally displaced. UNHCR becomes involved in situations of internal displacement on an ad hoc basis at the request of the Secretary-General or General Assembly when particular situations have a "direct link" to its refugee mandate or when its particular expertise is otherwise required. 2/ The ICRC, meanwhile, limits its

involvement to situations of armed conflict, when it seeks to provide protection and assistance to civilian victims, regardless of whether or not they have been displaced. 3/ The fact that UNHCR and the ICRC are not present in all situations of internal displacement makes it essential that protection concerns also are addressed by other operational agencies in the institutional framework. The Representative has worked closely with a number of humanitarian organizations, both at the headquarters level and in the field, to encourage them to pay greater attention to the needs of internally displaced persons, particularly in the area of protection. UNICEF, for example, has been focusing greater attention on the protection needs of internally displaced children within the context of promoting implementation of the Convention on the Rights of the Child.

14. An ongoing study by the Brookings Institution-Refugee Policy Group Project on Internal Displacement, directed by the Representative, already has made concrete suggestions for institutional reform. 4/ These have been disseminated widely and are summarized in previous reports of the Representative to the Commission. One particular issue highlighted in these reports is the need for a central point or mechanism within the international system to rapidly assign institutional responsibility in emergency situations involving internally displaced persons. Assigning one agency overall responsibility for the internally displaced in each complex emergency is another idea currently being explored. A final set of proposals, based on further analysis of relevant institutions, the Representative's country visits, and at least 10 case studies will be published in 1997 and summarized in next year's report to the Commission. In the present report, the Representative would like to focus on the need to strengthen the capacity of the United Nations human rights machinery to better address the protection problems confronting the internally displaced and to assume greater responsibility for addressing these concerns. UNHCR and other humanitarian organizations have repeatedly called for the greater involvement of United Nations human rights bodies in field operations in complex emergencies.

15. The High Commissioner for Human Rights has declared his readiness to contribute to efforts aiming at providing internally displaced persons with protection on the ground. He has outlined a programme of action emphasizing the importance of ensuring a human rights field presence in displacement crises and of extending advisory services and technical assistance in human rights issues to the Governments concerned. 5/ The implementation of this programme within an overall comprehensive approach would be facilitated by ensuring that the High Commissioner and the Representative are invited to play a more active role in the Inter-Agency Standing Committee (IASC), especially when it discusses and takes decisions on humanitarian crises of which internal displacement is a significant part.

16. Recent experience in the former Yugoslavia and in Rwanda evidences the significant protective effect of deploying human rights field staff. In the former Yugoslavia, the Commission's Special Rapporteur relied on information provided by field staff as the basis for intercessions with the local authorities. Moreover, the very collection of information by field staff has been found to "result in the implementation of positive changes in human rights practices, and even in the remedying of specific violations". 6/ In Rwanda, the human rights field staff, numbering more than 100, received a

mandate extending beyond the traditional functions of monitoring and reporting to include engaging in efforts to redress existing human rights problems and to prevent possible violations. 7/ They also were requested to facilitate the return of internally displaced persons and refugees by helping to create conditions of safety in areas of return. This latter assignment marked not only a new role for human rights field staff but also the first time that their mandate specifically addressed the protection concerns of internally displaced persons. To be sure, the human rights field monitoring operations in both Rwanda and the former Yugoslavia encountered serious difficulties, largely attributable to delays in their deployment and deficiencies in training and direction. Even so, they provide instructive models of the potential protective effect of human rights field monitors which should be closely studied for more effective application in other situations.

17. In addition to the deployment of monitors, the High Commissioner also may introduce a human rights field presence under the advisory services and technical assistance programme which, inter alia, promotes human rights protection through the strengthening of national institutions. The advisory services programme also may enhance prevention and assist the High Commissioner in fulfilling the request of the Commission to pay special attention to "situations which cause or threaten to cause mass exoduses". 8/ In situations of actual displacement, the protection of refugees and displaced persons is one of the programme's explicit objectives. 9/

18. The protection function of the programme extends to the post-displacement phase in which it has been particularly active. For example, human rights field staff in Rwanda are assisting in the development of a system for resolving property disputes which should facilitate return and reintegration. The Representative welcomes such efforts by the Centre for Human Rights, through its advisory services and technical assistance programme, to strengthen national institutions in countries affected by displacement as well as to address the specific problems of internally displaced persons, and he encourages the High Commissioner to initiate such projects in more situations of internal displacement. In Tajikistan, for instance, an advisory services programme could assist the Organization for Security and Cooperation in Europe (OSCE) in training and implementing programmes to strengthen the judicial system. In Guatemala, projects could address the problems of the internally displaced with regard to land, housing, official papers, employment and protection from harassment. 10/ In Colombia, programmes addressing the problem of impunity, the lack of physical security for the displaced, and issues relating to land and property rights could be developed to increase protection and assistance for the internally displaced.

19. There are thus two important means by which the United Nations human rights mechanisms can address the need of internally displaced persons for greater physical and human rights protection in the field. The High Commissioner is authorized to deploy monitors to prevent and protect against human rights violations in emergency situations. He also may assign staff from the Centre for Human Rights to United Nations regional offices to offer training and other technical assistance to Governments in supporting national plans of action in the area of human rights.

20. Both of these forms of human rights field presence are already making important contributions towards addressing the protection needs of the internally displaced, but they need to be further developed. It is the hope of the Representative that the protection role of human rights monitors will become more comprehensive in scope, to cover not only the return process but also camp situations. The massacre at the Kibeho camp in Rwanda in April 1995 tragically underlined the need for a human rights field presence in camp situations and settlements where internally displaced persons congregate. With respect to the advisory services and technical cooperation programme, the Commission acknowledged at its last session the need to develop projects, in cooperation with Governments, relevant international organizations and the Representative, to promote the human rights of internally displaced persons. The High Commissioner, meanwhile, needs to activate both mechanisms more often in order to cover a greater number of situations of internal displacement. The fact remains, however, that the United Nations human rights mechanisms currently lack the capacity to become fully operational and present in all situations demanding their attention. The Representative urges the Commission to support and strengthen the capacity of the Centre for Human Rights to allow it to undertake a more active approach to addressing the protection concerns of the internally displaced in the field.

21. When human rights bodies cannot be present or have been denied entry to particular countries, the task of ensuring that protection concerns are known and addressed falls to other actors. In the former Yugoslavia, for example, UNHCR protection officers engaged in efforts to protect the internally displaced prior to the much-delayed deployment of human rights field monitors, and continued to do so after their arrival. In Tajikistan, UNHCR and then the OSCE assumed the on-site human rights monitoring and protection role in the absence of field staff from the Centre for Human Rights. In view of the serious deterioration of the security situation in that country in recent months, the urgent need for a human rights field presence remains.

22. Relief and development agencies are often the first to become aware of protection problems, but they do not always address such concerns as these do not fall within their mandates. In Rwanda, for example, the inter-agency needs assessment mission dispatched by DHA did not include a human rights expert even though protection problems were paramount. In Liberia and Angola, WFP became the lead agency because food logistics were deemed the most critical needs while protection problems, which were equally severe, received much less attention. Though relief and development agencies may not have the mandate and expertise to engage directly in protecting physical safety and human rights, they none the less have an important role to play in facilitating protection through consultations with Governments and negotiations for access to internally displaced populations in need.

23. Humanitarian agencies should collaborate closely with human rights organizations in order to ensure an integrated and comprehensive approach to the plight of the internally displaced that addresses both assistance and protection concerns. Inter-agency needs assessment missions dispatched to countries experiencing humanitarian crises should routinely include persons with expertise in human rights and protection. When increased attention to human rights is needed in a given situation of internal displacement, the United Nations Resident Coordinator should recommend a visit by the

Representative. Following the Representative's mission, United Nations humanitarian and human rights agencies present in the country should be made aware of his findings and expected to monitor the extent to which his recommendations are implemented. Specific cases of internal displacement should be examined in order to determine an appropriate division of responsibilities which could then be defined in memoranda of understanding between humanitarian and human rights bodies. The memorandum of understanding concluded between the High Commissioner for Human Rights and UNHCR for the purposes of dividing responsibilities for providing protection in Rwanda serves as a useful model for developing collaboration among human rights and humanitarian agencies in other situations.

24. Close coordination also is required between the United Nations human rights and economic development programmes to ensure that a comprehensive approach to internal displacement extends from the emergency phase into that of return and reintegration. The Centre for Human Rights has been encouraged by the Commission to cooperate with the United Nations Development Programme (UNDP) with a view to integrating projects for strengthening human rights into the overall UNDP country programmes. 11/ The Representative considers the inclusion of human rights concerns into projects of return and reintegration as a prerequisite for the development of durable solutions to problems of internal displacement and urges that such projects include measures specifically addressing the human rights of the internally displaced. The rights of women to ownership of land and to inheritance require special emphasis, as do projects designed to help women heads of household become economically self-supporting.

25. The Representative's emphasis on the need to enhance the capacity of United Nations organizations to address the protection and assistance needs of the internally displaced in a coordinated manner accords with a recent resolution of the Economic and Social Council (ECOSOC) on "Strengthening the coordination of emergency humanitarian assistance of the United Nations". 12/ Several of the issues listed in the annex to the resolution, such as the role and operational responsibilities of each relevant organization, the development of memoranda of understanding between organizations, and the capacity of each to act in a timely and effective manner, relate to internal displacement. Internally displaced persons, moreover, constitute the only category of victims identified in the list of otherwise thematic issues to be considered by the Secretary-General in accordance with this resolution. 13/ Particular attention is given to the problem of gaps and imbalances with respect to organizations' capacity, inter-agency coordination, and information issues in existing institutional arrangements relevant to the internally displaced. The support staff of the Representative has participated in this review process and it is the Representative's hope that the forthcoming findings and recommendations will maximize the capacity of international organizations to respond effectively to the problem of internal displacement in an integrated and comprehensive manner.

26. A particular development in the institutional framework that the Representative would like to highlight is the increasing importance of regional initiatives. Regional organizations have a vitally important role to play in promoting protection, assistance and development support for internally displaced persons. They are in a position to adapt policies to

regional realities; their innovative approaches can be transmitted both to affected countries within their regions and to the international system as a whole. Several recent developments at the regional level deserve mention. The OSCE has become directly involved in efforts to protect internally displaced persons in Bosnia and Herzegovina, the Caucasus and Tajikistan. Another important development within the OSCE region was the organization in May 1996 of a regional conference on forced migration within the Commonwealth of Independent States. 14/ The resulting Programme of Action is particularly significant for its wide range of proposed measures with regard to internal displacement as well as for the emphasis it places on the promotion and protection of human rights in general. If effectively applied as a framework for cooperative action, this document should foster the development, at the national level, of policies, legislation and institutions for preventing, managing and resolving situations of population displacement. Also noteworthy are the measures taken by the Organization of African Unity, through its conflict-prevention mechanism, to defuse tensions prior to potential situations of displacement. When preventive efforts fail, the importance of developing integrated programmes to deal with the relief and development needs of displaced populations has been underscored by the Regional Conference on Assistance to Refugees, Returnees and Displaced Persons in the Great Lakes Region (of Africa), held in Bujumbura in 1995. In the Americas that same year, the Representative met with the Inter-American Commission on Human Rights of the Organization of American States. Subsequently, it took the important institutional step of appointing a rapporteur on internally displaced persons. The Representative recommends that other regional bodies also consider establishing institutional mechanisms to monitor situations of internal displacement and promote solutions for the internally displaced.

III. COUNTRY VISITS

27. Since it is the Governments that must bear the primary responsibility for the plight of internally displaced persons, the country visits conducted by the Representative are one of the most important features of the mandate. They focus attention on specific crisis situations in the affected countries and, in emphasizing solution-oriented dialogue with Governments, enable the Representative to recommend corrective measures to be undertaken by the country concerned in cooperation with the international community, including intergovernmental and non-governmental organizations. Country visits also serve the wider purposes of deepening understanding of the various dimensions of the problem of internal displacement and developing global and region-specific standards and strategies towards its resolution.

28. Over the past few years, the Representative has visited the former Yugoslavia, the Russian Federation, Somalia, the Sudan, El Salvador, Sri Lanka, Colombia, Burundi, Rwanda and Peru, and presented his findings and recommendations in previous reports to the Commission. Since the last session of the Commission, he has conducted two missions: one to Tajikistan in June 1996, on which he submitted a report to the last session of the General Assembly (A/51/483/Add.1 and 2); and the other to Mozambique in December, the report on which is submitted as an addendum to the present report.

29. The country visits undertaken by the Representative this past year provide valuable insight into both the problems and the promising developments occurring in the post-displacement phase of return, reintegration and development. In his report on Tajikistan, the Representative noted that although most of the 600,000 internally displaced by the civil war in 1992 had returned, their successful reintegration will depend on the degree to which the country can overcome the challenges of post-war economic and social reconstruction, peacefully resolve the underlying causes of the conflict, and remedy the recently deteriorated security situation which is generating new displacement. Issues of protection thus persist alongside those of reintegration and development. In Mozambique, by contrast, the peace accord in 1992 that ended 16 years of conflict has held firm with the result that, other than the serious danger posed by landmines, protection issues do not appear to act as an impediment to the processes of return and reintegration. Despite these differences in the two country situations, there are significant common threads running between them that underscore themes likely to be relevant in the post-displacement phase of other situations of internal displacement.

30. Both situations highlight the need for a holistic approach to the post-displacement phase of return, reintegration and development. In particular, they highlight the need for the provision of relief assistance and the planning of development projects to occur in a mutually reinforcing manner. In Mozambique and Tajikistan, UNHCR has attempted to facilitate reintegration by providing extensive assistance to returnees while simultaneously sponsoring quick-impact projects (QIPs) that aim to stimulate the recovery and reconstruction of entire communities. As their name might suggest, however, these QIPs need to be coupled with development initiatives which, in a more focused manner, aim at ensuring economic viability and sustainability as well as at safeguarding against the risk of fostering a relationship of dependency by the beneficiary population on the international community.

31. Ensuring the sustainability of reintegration efforts undertaken by humanitarian agencies therefore requires greater cooperation and continuity of purpose with development agencies from the outset. Humanitarian and development agencies should base their emergency relief programmes on the capabilities of the displaced and the survival mechanisms of the communities concerned. Development agencies, meanwhile, must make use of the emergency phase to formulate plans for increasing the coping capacity of affected areas so that they can effectively absorb uprooted populations. In Tajikistan and Mozambique, the development-oriented projects initiated by UNHCR could have benefited earlier from the expertise of UNDP in ensuring economic sustainability and beneficiary participation in development planning. Whether the early involvement of UNDP requires that it be present in the country or merely consulted at the conceptual stage of development-oriented projects is an issue requiring further consideration.

32. The need for a holistic approach extends to protection issues as well. In recognition of this need, the OSCE field officers in Tajikistan, who assumed the protection role initiated by UNHCR, focus their efforts on internally displaced persons and returnees but also address the human rights issues of the general population. At the same time as addressing the

immediate protection concerns of internally displaced persons, therefore, the OSCE simultaneously pursues the broader aim of developing the democratic process in one of its member States. With the deterioration of the security situation in Tajikistan since the Representative's visit, the need for continued efforts to strengthen national institutions for the protection of human rights and the rule of law has become all the more acute and should be addressed by the dispatch of a human rights assessment mission of the Centre for Human Rights.

33. In the course of his country visits, the Representative found that the special assistance, protection and development needs experienced by women and children, who constitute the vast majority of the internally displaced, are far from being adequately addressed, both during displacement and during the process of reintegration. His previous reports contain several recommendations for improving their situation. 15/ These include the need to develop measures to ensure that women are involved in the planning and distribution of relief, that they are protected against gender-specific violence, and that women heads of household receive special training and assistance in becoming economically self-supporting and able to provide for their families. In many countries, such as Tajikistan, the risk as well as the consequences of losing employment are especially serious for women, who may suffer from double discrimination owing to their ethnicity as well as their gender. They also experience more problems in establishing an alternative source of livelihood since the lack of credit opportunities tends to affect women most severely. These circumstances often compel children in women-headed households to contribute to the family income, which, in turn, results in reduced levels of school attendance. This is a problem that has been exacerbated in the Kurgan-Tyube region of Tajikistan by the practice of compelling teachers and children to provide forced labour during the cotton harvesting season.

34. In addition to often being deprived of adequate education and health services, children internally displaced in situations of armed conflict are likely to suffer from severe war-induced stress. The recent study by Ms. Graça Machel on the impact of armed conflict on children (A/51/306 and Add.1), in which the Representative was actively involved, noted that the assistance and protection needs of refugee and internally displaced children were not consistently addressed by humanitarian agencies. The study identified several areas for improvement, including in the protection of displaced children against sexual violence and forcible recruitment into armed forces as well as practical measures to ensure the survival and protection of unaccompanied children.

35. While human rights and humanitarian agencies as well as NGOs have taken steps towards reducing the special vulnerabilities of internally displaced women and children, a great deal more attention should be paid to developing strategies for addressing their assistance, protection and development needs. UNHCR has adopted practical measures to improve the situation of these vulnerable categories of persons in accordance with its guidelines on the protection of refugee women and children and on sexual violence against refugees. These should be disseminated to agencies working with internally displaced women and children, with the expectation that they will undertake efforts to implement their provisions. The Representative welcomes the recent

efforts of UNICEF to increase its capacity to address the particular protection as well as assistance needs of internally displaced children and internally displaced women care-givers, and encourages other humanitarian agencies to follow this example. With respect to the coordination of these efforts, the IASC Task Force on Internally Displaced Persons should evaluate the extent to which the assistance and protection needs of internally displaced women and children are being addressed in the field and develop collaborative arrangements for doing so more effectively.

36. As has been emphasized repeatedly by the Representative in previous reports, country visits provide an important opportunity for a constructive exchange of views with Governments and for raising the level of awareness within the country of the problem of internal displacement. If these country missions are to achieve their central aim of ameliorating the situation of the internally displaced, however, it is essential that there be appropriate follow-up. Extensive and frequent on-site monitoring is needed to ensure that situations are, in fact, improved and that the recommendations arising from discussions with Governments and international organizations are carried out. The High Commissioner for Human Rights has expressed a strong interest in ensuring the implementation of the recommendations made by representatives and rapporteurs of the Commission. 16/ In Tajikistan and Colombia, the establishment of a human rights field presence could contribute significantly in this regard. The Representative encourages the Centre for Human Rights to play a role in the follow-up process in the other countries he has visited as well.

IV. CONCLUSIONS

37. Building on the activities of the mandate over the past several years, the Representative's attention in the year ahead will continue to focus on the three main areas of his work: developing a normative framework; improving institutional arrangements at the international, regional and national levels; and undertaking visits to countries with serious problems of internal displacement, including those with problems relating to the reintegration of the displaced, in order to devise strategies for their resolution, in cooperation with the Governments concerned as well as international, regional and non-governmental organizations. Compared with the growing magnitude and complexity of the problem of internal displacement, however, the capacity of the Representative to perform this catalytic role in a comprehensive and effective manner is limited and requires strengthening. While drawing the attention of the Commission to this need, the Representative recognizes that the continued constraints on the resources of the United Nations system call for creative solutions. With this in mind, the Representative has sought and obtained external support for the work of his mandate. Support from both Governments and foundations has enabled in-depth research into the legal status of internally displaced persons, an analysis of institutional arrangements, including regional organizations and NGOs, and the development of a global overview of statistics and geographic distribution of internally displaced persons. The study being conducted under the direction of the Representative by the Brookings Institution-Refugee Policy Group Project on Internal Displacement has drawn upon the expertise of a large number of academics, lawyers, refugee and human rights specialists as well as institutions such as the American Society of International Law, the

Ludwig Boltzmann Institute of Human Rights, the International Human Rights Law Group, the Norwegian Refugee Council, the United States Committee for Refugees, and the Washington College of Law of the American University. The study should be ready for publication in 1997.

38. Though the Representative will continue to foster such collaborative arrangements with outside experts and specialized institutions, there remains a need for strengthened support of his mandate from within the United Nations system. It must be remembered that the problem of displacement is of great magnitude and global dimension, involving some 35 to 40 countries. This requires close monitoring of developments in these countries to detect serious crises that warrant involvement by the international community. This also requires gathering and processing information, planning and servicing country missions, conducting follow-up activities, coordinating efforts with intergovernmental and non-governmental actors, and, overall, promoting an international response. These are activities that demand active attention from the Centre for Human Rights which services the mandate. At present, there is a serious lack of resources at the Centre to meet this challenge. The staff member servicing the mandate, who has left the Centre since the last session of the Commission, has not been replaced. The Representative's current level of support in the Centre consists of two associate experts, provided by the Governments of Norway and Germany respectively, who are frequently assigned other responsibilities within the Centre in addition to servicing the mandate and whose contracts expire within the coming months. Taking into account that the position of Representative is a voluntary one, undertaken on a part-time basis, it would be particularly useful to have a senior staff member to assist in managing the affairs of the mandate, to play a role in inter-agency decision-making, and to act on behalf of the Representative whenever his other commitments prevent him from attending meetings requiring a senior level of representation. The mandate also could benefit from having a coordinator charged with enhancing collaboration on issues of internal displacement with intergovernmental agencies and NGOs, encouraging their greater involvement in the field, and monitoring and collecting information about serious situations of internal displacement. At the very minimum, the mandate requires the services of two regular human rights officers, adequate administrative support, and a commensurate level of secretarial expertise.

39. Several years ago, the Commission deemed the issue of internally displaced persons of sufficient international concern to warrant the creation of this mandate. Since then, the problem of internal displacement has only increased in severity and magnitude. If recent years are any indication, this trend regrettably is only likely to continue. At the same time, certain positive developments in the post-displacement phase that the Representative witnessed first-hand in Tajikistan and Mozambique evidence the potential for solutions. The continued existence of the problem of internal displacement combined with the ongoing need to search for solutions require that the capacity of the Representative's mandate and of the United Nations human rights machinery in general be strengthened in order to meet these challenges in a comprehensive and effective manner.

Notes

1/ UNHCR, International Legal Standards Applicable to the Protection of Internally Displaced Persons: A Reference Manual for UNHCR Staff, 1996.

2/ UNHCR's operational guidelines for involvement with internally displaced persons are delineated in Inter-Office Memorandum No. 33/93 and Field Office Memorandum No. 33/93 issued by the United Nations High Commissioner for Refugees, 28 April 1993. See UNHCR's Operational Experience with Internally Displaced Persons (Geneva: UNHCR, September 1994), annex I.

3/ Jean-Philippe Lavoyer, "Refugees and displaced persons - International humanitarian law and the role of the ICRC", International Review of the Red Cross, No. 305, March-April 1995, pp. 162-180.

4/ See, for example, Roberta Cohen and Jacques Cuenod, "Improving institutional arrangements for the internally displaced", Brookings Institution - Refugee Policy Group Project on Internal Displacement, October 1995.

5/ Specific suggestions for creating a framework for the continued on-site protection of the human rights of displaced persons and refugees are elaborated in the reports of the High Commissioner for Human Rights to the General Assembly (A/50/36) and to the Commission on Human Rights (E/CN.4/1995/98).

6/ Situation of human rights in the territory of the former Yugoslavia, tenth periodic report by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights (E/CN.4/1995/57), para. 122.

7/ Report of the High Commissioner for Human Rights on the Human Rights Field Operation for Rwanda (A/50/743, annex).

8/ Commission on Human Rights resolution 1995/88, para. 8.

9/ Report of the High Commissioner for Human Rights to the Commission on Human Rights (E/CN.4/1995/98).

10/ Assistance to Guatemala in the field of human rights: report by the Independent Expert, Mrs. Mónica Pinto, to the Commission on Human Rights (E/CN.4/1994/10), para. 185.

11/ Commission on Human Rights resolution 1994/69, para. 18.

12/ ECOSOC resolution 1995/56 of 28 July 1995.

13/ The issues raised pursuant to the resolution include: (1) Coordination; (2) Resource mobilization; (3) Human resources development and staff security; (4) Relief, rehabilitation and development; (5) Evaluation; (6) Local capacity-building; and (7) Internally displaced persons. These issues were identified on the basis of the indicative list of

issues in the annex to ECOSOC resolution 1995/56 and, as the resolution provides, bearing in mind section VII of the annex to General Assembly resolution 46/182 of 19 December 1991.

14/ The full name of the meeting is the "Regional Conference to Address the Problems of Refugees, Displaced Persons, Other Forms of Involuntary Displacement and Returnees in the Countries of the Commonwealth of Independent States and Relevant Neighbouring States".

15/ See, in particular, the report of the Representative of the Secretary-General on internally displaced persons to the Commission on Human Rights at its fifty-second session (E/CN.4/1996/52).

16/ Report of the High Commissioner for Human Rights (E/CN.4/1995/98), op. cit.